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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/754,541

01/05/2001

Jeffery Allen Tupis

9D-HR-19690-Tupis

2626

7590

07/28/2004

John S. Beulick
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis, MO 63102

EXAMINER

FRISTOE JR, JOHN K

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 07/28/2004

121

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/754,541

Applicant(s)

TUPIS, JEFFERY ALLEN

Examiner

John K. Fristoe Jr.

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-20 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 3-6 and 9-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 11/14/2002 (paper no. 11) is acknowledged by the examiner.

Claim Objections

2. Claim 7 is objected to because of the following informalities: the term “damper” should replace the term “door” in line 2, in order to correct the lack of antecedent basis for the term “door frame”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,799,187 (Armstrong). Armstrong discloses a motorized damper door comprising a damper frame (22), a damper door (24), a mounting portion (the portion of damper door 24 adjacent seal 45 in figure 8), a seal member (45), and the mounting portion (the portion of damper door 24 adjacent seal 45 in figure 8) and the moisture barrier forms a reservoir (the container formed by seal 45 in figure 8) as well as extends from the damper frame (figure 8).

Allowable Subject Matter

5. Claims 15-20 are allowed.

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6. Claims 3-6 and 9-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. (3,123,098 (Bishop) discloses a damper having a moisture barrier.

U.S. Pat. No. 4,836,499 (Steele et al.) disclose a valve having a moisture barrier.

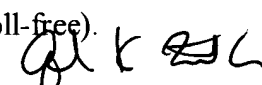
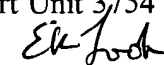
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (703) 308-1437.

The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Louis G. Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JKF


John K. Fristoe Jr.
Examiner
Art Unit 3754

EDWARD K. LOOK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
7/24/04